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09/750,105	12/29/2000	James M. Rogers	BS00-139	6282

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EXAMINER
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MANNING, JOHN

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/750,105

Applicant(s)

ROGERS ET AL.

Examiner

John Manning

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Hite et al (6,002,393).

In regard to claim 12, the claimed limitation of "a decoder for decoding broadcast media programming into the media delivery device" is met by the digital demultiplexer 422, the digital descrambler 426, or the digital to analog converter 430 in Figure 5. The claimed limitation "a commercials database for storing advertisements in the media delivery device" is met by the optional video storage device 456 of Figure 5. The claimed limitation of "a commercial detector for detecting signals to insert a locally stored advertisement from the commercials database into the media stream" is met by the commercial processor 438 of Figure 5. "Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional

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Video Storage Device 456" (Col 14, Lines 28-32). Where the advertisements "are matched to the viewer's interests and needs" (Col 3, Lines 21-22). The claimed limitation "means for substituting an advertisement received through broadcast media programming with an advertisement stored in the commercials database" is also met by the commercial processor 438 of Figure 5 (Col 14, Lines 33-46). The claimed limitation of "means for portably receiving and providing the broadcast media programming and the substituted advertisement" is met by the set top box, which is inherently portable and operable to be handheld.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, 14-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. in view of Ballard (US Pat No 6,182,050),

In regard to claim 1, the Hite et al. reference discloses a system and method for delivering targeted advertisements to consumers. The method of claim 1 is met by the method carried out by the system depicted in Figure 1. The claimed step of "storing a plurality of advertisements in a media delivery device in a database, wherein the stored advertisements are each of a type that is determined to appeal to one or more users of the media delivery device" is met by the optional video storage device 456 of Figure 5.

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The claimed step of "receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming" is met by the commercial processor 438 of Figure 5. The claimed step of "inserting an advertisement stored in the database into the media delivery stream" is met by Figure 5. The "Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456" (Col 14, Lines 28-32). Where the advertisements "are matched to the viewer's interests and needs" (Col 3, Lines 21-22). Although Hite discloses an optional upstream transmitter, the reference fails to explicitly disclose "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device". Ballard discloses "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy. "To maintain a degree of privacy for the end user specific end user information such as name, address, social security number, and specific financial data is not sent in a message. For advertisement distribution based on affinity ranking, the message content manager selects one or more product categories and corresponding affinity rankings in the affinity ranking data 66. Various methods may be used to select the product categories to include in a message. In one method the message content manager randomly selects a product

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category. In another method, sequential messages specify the product categories in descending affinity ranked order. Each message is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the advertising category and affinity ranking and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). For advertisement distribution based on demographic data, the message content manager sends a request to the ASP computer to send an advertisement which conforms to a included set of demographic parameters. Such information is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the demographic data and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). In another embodiment both affinity data and demographic data are sent" (Col 9, Lines 22-48). Consequently, it would have been obvious to one of ordinary skill in the art to modify Hite with "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy.

In regard to claim 2, the reference discloses that the advertisements are commercials. "The Ad Administration Facility 100 is where customers, commercials, and programs are analyzed and categorized and the results stored in databases" (Col 1, Lines 66-67).

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In regard to claim 3, the reference discloses that the "media delivery device" is a set top box for receiving broadcast signals for a cable or satellite television network system. An "individually addressable digital recording device (RD) with a unique address is installed at the display site in the television or radio receiver, VCR, display device or set-top-box or modular decoder associated with the media provider (cable, DBS, telephone, etc.)" (Col 5, Lines 2-7).

In regard to claim 4, the Hite et al. reference discloses a system and method for delivering targeted advertisements to consumers. The reference discloses classifying the commercials; however, the reference is silent with respect to putting the classified commercials in a table form. "Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc" (Col 7, Lines 7-9). It is submitted that it would have been clearly obvious to one of ordinary skill in the art to modify Hite et al. with the classified commercials in table form so as to facilitate searching and accessibility.

In regard to claim 5, the "signal includes at least one classification for one or more of the categories". "Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc" (Col 7, Lines 7-9).

In regard to claim 6, the reference is silent with respect to searching the table in the database for at least one advertisement having a classification in at least one category that is provided in the signal. It is submitted that it would have been clearly obvious, if not inherent, to one of ordinary skill in the art to modify Hite et al. with

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searching the table in the database for at least one advertisement having a classification in at least one category that is provided in the signal so as to provide the appropriate commercial at the appropriate.

In regard to claim 7, the reference discloses the step of selecting an advertisement from the at least one advertisement having a classification provided in the signal by weighting the relative importance of each category in the table. "A frequency indicator code can be appended to the commercial's CID code. The frequency indicator code would be loaded into a register at the display site. The contents of the frequency indicator code register would be decremented each time the commercial is successfully displayed. A successful display of the commercial requires the display device to be in its "on" condition. When the frequency indicator code register reaches zero, the commercial will no longer be displayed" (Col 4, Lines 25-34).

In regard to claim 8, the reference discloses that the stored advertisements are received by the "media delivery device" as encoded data files through a telecommunications link to an external database of advertisements as shown in Figure 2. The commercials are compressed therefore they are encoded. The databases are items 102 and 116.

In regard to claim 9, the claimed step of "transmitting a request to an external network through a telecommunications link to receive advertisements for storage in the media delivery device" is inherent to the system. The claimed step of "receiving encoded data files of advertisements through the telecommunications link for storage in the media delivery device" is met by Figure 2 and Figure 5. The stored advertisements



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are received by the "media delivery device" as encoded data files through a telecommunications link to an external database of advertisements as shown in Figure 2. The commercials are compressed therefore they are encoded. The claimed step of "classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored." The reference discloses classifying the commercials. "Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc" (Col 7, Lines 7-9). The reference is silent with respect to the step of "transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device". Although Hite discloses an optional upstream transmitter, the reference fails to explicitly disclose "transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device". Ballard discloses "transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy. "To maintain a degree of privacy for the end user specific end user information such as name, address, social security number, and specific financial data is not sent in a message. For advertisement distribution based on affinity ranking, the message content manager selects one or more product categories and corresponding affinity rankings in the affinity ranking data 66. Various methods may

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be used to select the product categories to include in a message. In one method the message content manager randomly selects a product category. In another method, sequential messages specify the product categories in descending affinity ranked order. Each message is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the advertising category and affinity ranking and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). For advertisement distribution based on demographic data, the message content manager sends a request to the ASP computer to send an advertisement which conforms to a included set of demographic parameters. Such information is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the demographic data and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). In another embodiment both affinity data and demographic data are sent" (Col 9, Lines 22-48). Consequently, it would have been obvious to one of ordinary skill in the art to modify Hite with "transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy.

In regard to claim 10, the claimed step of "receiving download signals from the broadcast media stream in the media delivery device to download advertisements for storage in the media delivery device, wherein, for each advertisement, the signals include a classification for one or more of the categories as provided in the table for

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selecting a commercial stored in the database for insertion into the media delivery stream” is met by Figure 2 and Figure 5. The stored advertisements are received by the “media delivery device” as encoded data files through a telecommunications link to an external database of advertisements as shown in Figure 2. The reference discloses classifying the commercials. “Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc” (Col 7, Lines 7-9). The claimed step of “downloading the advertisements having a classification for one or more of the categories as provided in the table that matches a pre-stored classification in a list of classifications indicating the one or more types of advertisements that appeal to users of the media delivery device” is met by Figure 2 and Figure 5. “A suitable process is used to target prospective viewers of a set of advertisements using database search and list selection procedures. The result of this process is a set of appropriate CID codes for the prospective viewers. These CID codes are transmitted to the viewing device and stored” (Col 3, Lines 65-67; Col 4, Lines 1-2).

In regard to claim 11, the reference discloses that the commercials are classified by codes that are used to determine whether or not to display the commercial. “Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc” (Col 7, Lines 7-9). The reference is silent with respect to the categories including one or more of: sponsor name; type of product advertised; relative pricing of product advertised; and location of sponsor. However, it is submitted that it would have been clearly obvious to

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one of ordinary skill in the art to implement the included code one or more of: sponsor name; type of product advertised; relative pricing of product advertised; and location of sponsor so as to facilitate the determination of whether or not to display the commercial.

In regard to claim 14, the claimed limitation of "means for inserting advertisements into the commercials database that are classified as a type that appeals to users of the media delivery device" is met by Figure 5. The "Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456" (Col 14, Lines 28-32). Where the advertisements "are matched to the viewer's interests and needs" (Col 3, Lines 21-22).

In regard to claim 15, the claimed limitation of "storing a plurality of television commercials advertising products or services for local business concerns in a database, wherein the advertised products are each of a type that has been determined to appeal to one or more users of the set top box" is met by the optional video storage device 456 of Figure 5. The "Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456" (Col 14, Lines 28-32). Where the advertisements "are matched to the viewer's interests and needs" (Col 3, Lines 21-22). The claimed steps of "receiving a signal in the media programming stream from a broadcasting network to insert a television commercial for a local business concern during a segment of airtime allocated for local commercial advertising" and "inserting a television commercial stored in the database into the media

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programming stream" are met by the commercial processor 438 of Figure 5 (Col 14, Lines 33-46). Although Hite discloses an optional upstream transmitter, the reference fails to explicitly disclose "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the set top box". Ballard discloses "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the set top box" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy. Consequently, it would have been obvious to one of ordinary skill in the art to modify Hite with "transmitting signals between the media delivery device and the external network indicating the one or more types of advertisements that appeal to users of the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy. The reference is silent with respect to the identification of the set top box to the server. However, it is submitted that it would have been obvious (if not inherent to the system) to one of ordinary skill in the art to implement the reference with identification of the set top box to the server so as the server to send an advertisement to a specific end user.

Claim 16 is met by that discussed above for method of claim 15.

In regard to claim 18, the reference is silent with respect to transmitting signals that "identify the relative location of a household in which the set top box is operating", however, it is submitted that it would have been clearly obvious to one of ordinary skill in the art to "identify the relative location of a household in which the set top box is

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operating" to the "external network" so as to provide demographical information to aid in providing targeted commercials.

In regard to claim 19, the reference is silent with respect to transmitting signals to identify the types of television commercials that are of interest to the users. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to transmit signals to identify the types of television commercials that are of interest to the users so as to provide the user with programming or advertisement that reflect the users interests. Consequently, it would have been clearly obvious to one of ordinary skill in the art to implement the Hite et al. reference with to transmitting signals to identify the types of television commercials that are of interest to the users so as to provide the user with programming or advertisement that reflect the users interests.

In regard to claim 20, the reference is silent with respect to "transmitting a record to a broadcasting network identifying the commercial inserted into the programming stream", however, it is submitted that it would have been clearly obvious to one of ordinary skill in the art to transmit a record to a broadcasting network identifying the commercial inserted into the programming stream so as to avoid send commercials that have already been viewed.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hite in view of Yang (US Pat No 6,459,906).

In regard to claim 13, the combined teaching discloses that the "media delivery device" is a set top box for receiving broadcast signals for a cable or satellite television network system. The combined teaching fails to explicitly disclose that the portable

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handheld media delivery device is a wireless telephone. Yang teaches integrating the functionality of a TV and a wireless cellular into a single unit for the convenience of use. "An operation mode of the TV phone is classified into a phone mode, a waiting mode, and a TV mode, which is also used as the waiting mode. When operating in the TV mode, the TV phone allows a user to watch and hear images and voices of the television program received on a display unit, i.e. a Thin Film Transistor (TFT) Liquid Crystal Display (LCD), and a speaker or an earphone of the portable phone" (Col 1, Lines 39-47). Consequently, it would have been obvious to one of ordinary skill in the art to modify the aforementioned combined teaching with integrating the functionality of a TV and a wireless cellular into a single unit for the convenience of use.

7. Claim 21-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hite in view of Ballard and further in view of Schmelzer (US Pat No 5,424,770).

In regard to claim 21, the claimed limitation of "a receiver for receiving broadcast media programming into the set top box" is met by the receiver 410 of Figure 5. The claimed limitation of "a commercials database for storing advertisements in the media delivery device" is met by the optional video storage device 456 of Figure 5. The claimed limitation of "a commercials detector for detecting audio tones in broadcast media programming that indicate authorization for a local television station to insert a locally stored advertisement into the media stream" is met by the commercial processor 438 of Figure 5. "Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456"

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(Col 14, Lines 28-32). Where the advertisements "are matched to the viewer's interests and needs" (Col 3, Lines 21-22). The claimed limitation of "switching logic to interrupt a television connected to the set top box from the media programming stream and to temporarily decode a television commercial stored in the commercials database when a substitution signal is detected in the commercials detector" is met by the commercial processor 438, the digital demultiplexer 422, and the optional video storage device 456 of Figure 5. "The Commercial Processor 438 can select the data stream processed by the digital portions of the system by the system by signals conveyed by electrical and/or optical connection 440 to the Digital Demultiplexer 422" (Col 14, Lines 17-20). The combined teaching fails to explicitly disclose detecting audio tone. Schmelzer teaches detecting audio tones so as to automatically insert television commercials. "The audio signals are monitored for industry standard cue tones which indicate the beginning of a cable commercial break (usually 5-8 seconds before the actual commercial break occurs). These cue tones, furthermore, in some networks may be standard sub-audio tones. A computer controller 340 detects the audio or sub-audio cue tones and provides a control signal 344 to control (via appropriate software) the switches and tape players 310a-h for commercial insertion system generally indicated as 360. Within computer/controller 340, whenever sub-audio tones are to be detected, there is provided a sub-audio tone detector such as a Wegener Model 1601 mainframe and control, for converting sub-audio tones to usable audio tones" (Col 12, Lines 20-33). Consequently, it would have been obvious to one of ordinary skill in the art to modify the



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aforementioned combined teaching so as to facilitate the automatic insertion of television commercials.

In regard to claim 22, the claimed limitation of "receiving information into the end user device that provides an indication of topics of interest of an end user" is met by the receiver 410 of Figure 5. The combined teaching fails to explicitly disclose detecting audio tone. Schmelzer teaches detecting audio tones so as to automatically insert television commercials. "The audio signals are monitored for industry standard cue tones which indicate the beginning of a cable commercial break (usually 5-8 seconds before the actual commercial break occurs). These cue tones, furthermore, in some networks may be standard sub-audio tones. A computer controller 340 detects the audio or sub-audio cue tones and provides a control signal 344 to control (via appropriate software) the switches and tape players 310a-h for commercial insertion system generally indicated as 360. Within computer/controller 340, whenever sub-audio tones are to be detected, there is provided a sub-audio tone detector such as a Wegener Model 1601 mainframe and control, for converting sub-audio tones to usable audio tones" (Col 12, Lines 20-33). Consequently, it would have been obvious to one of ordinary skill in the art to modify the aforementioned combined teaching so as to facilitate the automatic insertion of television commercials. Although Hite discloses an optional upstream transmitter, the reference fails to explicitly disclose "requesting and downloading from an external source commercials that correspond to the topics of interest that have been specified". Ballard discloses "requesting and downloading from an external source commercials that correspond to the topics of interest that have been

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specified" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy. "To maintain a degree of privacy for the end user specific end user information such as name, address, social security number, and specific financial data is not sent in a message. For advertisement distribution based on affinity ranking, the message content manager selects one or more product categories and corresponding affinity rankings in the affinity ranking data 66. Various methods may be used to select the product categories to include in a message. In one method the message content manager randomly selects a product category. In another method, sequential messages specify the product categories in descending affinity ranked order. Each message is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the advertising category and affinity ranking and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). For advertisement distribution based on demographic data, the message content manager sends a request to the ASP computer to send an advertisement which conforms to a included set of demographic parameters. Such information is sent to the ASP computer 52. The ASP computer 52 then selects one or more advertisements that conform to the demographic data and sends the advertisements to the end user via modem, fax and messenger service (e.g., postal service). In another embodiment both affinity data and demographic data are sent" (Col 9, Lines 22-48). Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with "transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality

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of advertisements for storage in the media delivery device" so as to allow advertisers to be able to reach target consumers within a system which protects consumer privacy.

The claimed limitations of "selecting by the end user device a previously downloaded commercial" and "substituting the selected commercial in place of content of the external media broadcast stream in response to detecting the signal" are met by the commercial processor 438, the digital demultiplexer 422, and the optional video storage device 456 of Figure 5. "The Commercial Processor 438 can select the data stream processed by the digital portions of the system by the system by signals conveyed by electrical and/or optical connection 440 to the Digital Demultiplexer 422" (Col 14, Lines 17-20).

In regard to claim 23, the Hite reference discloses that the data files representing the plurality of advertisements are received through a telecommunications link. An "individually addressable digital recording device (RD) with a unique address is installed at the display site in the television or radio receiver, VCR, display device or set-top-box or modular decoder associated with the media provider (cable, DBS, telephone, etc.)" (Col 5, Lines 2-7).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JM  
April 12, 2005

A handwritten signature in black ink, appearing to read 'JM' followed by a stylized flourish.

**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**